

#### Members

Sen. Brandt Hershman, Co-Chairperson  
Sen. Ryan Mishler  
Sen. Beverly Gard  
Sen. Ed Charbonneau  
Sen. Dennis Kruse  
Sen. Sue Landske  
Sen. James Merritt  
Sen. Sue Errington  
Sen. Jean Breaux  
Sen. Earline Rogers  
Sen. Karen Tallian  
Rep. David Crooks, Co-Chairperson  
Rep. Kreg Battles  
Rep. Sandra Blanton  
Rep. Chester Dobis  
Rep. Ryan Dvorak  
Rep. Paul Robertson  
Rep. Dan Stevenson  
Rep. Jack Lutz  
Rep. Robert Behning  
Rep. David Frizzell  
Rep. Timothy Neese  
Rep. Ed Soliday



## REGULATORY FLEXIBILITY COMMITTEE

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Authority: IC 8-1-2.5-9

### MEETING MINUTES<sup>1</sup>

Meeting Date: October 16, 2008  
Meeting Time: 10:00 A.M.  
Meeting Place: State House, 200 W. Washington St., the House Chambers  
Meeting City: Indianapolis, Indiana  
Meeting Number: 3

**Members Present:** Sen. Brandt Hershman, Co-Chairperson; Sen. Ryan Mishler; Sen. Beverly Gard; Sen. Ed Charbonneau; Sen. Dennis Kruse; Sen. James Merritt; Sen. Sue Errington; Sen. Jean Breaux; Rep. Kreg Battles; Rep. Ryan Dvorak; Rep. Dan Stevenson; Rep. Jack Lutz; Rep. David Frizzell.

**Members Absent:** Sen. Sue Landske; Sen. Earline Rogers; Sen. Karen Tallian; Rep. David Crooks, Co-Chairperson; Rep. Sandra Blanton; Rep. Chester Dobis; Rep. Paul Robertson; Rep. Robert Behning; Rep. Timothy Neese; Rep. Ed Soliday.

#### I. Call to Order

Senator Hershman called the meeting to order at 10:10 a.m.

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<sup>1</sup> Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.in.gov/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

## **II. Potential Regulation of Wind Power in Indiana**

Brandon Seitz testified about the Office of Energy and Defense (OED) overseen by the Lieutenant Governor. The OED has eight employees who formulate state energy policy and travel throughout the state promoting energy projects, including wind development. Senator Hershman asked about the strategy of locating wind farms in Indiana with respect to the existing power grid. Mr. Seitz answered that Indiana has excellent proximity to the grid such that no wind farm is ever too far away. Senator Errington asked Mr. Seitz about his opinion as to the appropriate renewable portfolio standard (RPS) for Indiana, and Mr. Seitz noted that legislation during the 2008 session focused on an RPS of 8% to 10%. Representative Lutz asked whether mandates or incentives work better to encourage renewable energy development. Mr. Seitz answered that neither is a deciding factor in attracting renewable energy development to Indiana; rather, a business is more likely to consider Indiana's location and overall business climate.

Robert Hartley, Locke Reynolds LLP, began his presentation to the committee by answering Senator Boots' question from the October 9 meeting concerning why merchant power plants are considered public utilities. Mr. Hartley pointed out the definition of public utility at IC 8-1-2-1 as well as several rulings by the Indiana Utility Regulatory Commission to support the conclusion that merchant power plants are public utilities. Mr. Hartley next presented a chart showing the regulatory framework for regulated utilities, third party developers, and utility customers at the federal, state, and local levels, including interconnection, net metering, and zoning regulations. See Exhibit A.

## **III. Energy and Environmental Stewardship at Purdue University**

Dr. Robin Ridgway of Purdue University spoke about her roles as Purdue University's physical facilities environmental regulator consultant and co-chair of the Purdue University Sustainability Council. See Exhibit B. Dr. Ridgway testified that the combined heat and power system at Purdue's West Lafayette campus generates power at 70% efficiency compared to 35% efficiency by electric utilities. Dr. Ridgway also detailed various energy efficiency projects that Purdue is pursuing, including qualified energy savings projects, utility metering, and retro-commissioning of campus buildings. She also informed the committee of alternative fuel sources that Purdue is exploring, such as switchgrass, tire-derived fuel, wood waste, and municipal solid waste.

## **IV. Funding for Wireline and Wireless Enhanced Emergency Telephone Systems**

State Treasurer Richard Mourdock testified in his capacity as chairman of the Wireless Enhanced 911 Advisory Board (WE9AB). Treasurer Mourdock explained how the 911 surcharge revenue is distributed among the counties and administrative and technology costs. See Exhibit C. Treasurer Mourdock also informed the committee about the availability of and requirements for federal grants under the New and Emerging Technologies 911 Improvement Act for wireless 911 enhancement. WE9AB did not make any specific legislative recommendations to the committee. Treasurer Mourdock also provided the committee additional material about the WE9AB, including financial reports. See Exhibits D, E, F, and G.

Paul Joyce, State Board of Accounts (SBA) Deputy State Examiner, and Debra Gibson, SBA County Office Supervisor, presented the SBA report on expenditures of E911 fees for the 2005, 2006, and 2007 calendar years. See Exhibits H and I. The SBA found commingling of 911 fees with other revenue sources in 11 counties. The SBA also found questioned costs totaling \$3,660,645 in 67 counties.

John Koppin, President of the Indiana Telecommunications Association (ITA), presented the recommendations of ITA to the committee. See Exhibit J. ITA advocates the adoption of a single statewide 911 fee applied to all users independent of the technology used. Mr. Koppin also recommended the creation of a single 911 board to oversee planning, administration, and fund collection and distribution. Mr. Koppin further suggested that the wireless and wireline 911 funds be combined and that restrictions on expenditures from the funds be enforced. Following Mr. Koppin's presentation, the committee recessed for lunch at 12:30 p.m.

The meeting resumed at 2:05 p.m. with the presentation of Hamilton County Sheriff Douglas Carter, testifying on behalf of the Indiana Sheriffs' Association. Sheriff Carter testified that ambiguity in current law results in unintentional wrongdoing as evidenced by the SBA's report. Sheriff Carter emphasized the need for transparency at all levels in order to achieve consistency in the administration of Indiana's 911 laws. Sheriff Carter noted that the potential loss of 911 revenue to Hamilton County if the state changes to a single fee system is very frustrating. Christine Altman, a Hamilton County commissioner, also discussed the 911 system in Hamilton County.

The committee next heard testimony from Greg Neibarger of Bingham McHale on behalf of CTIA — The Wireless Association and TracFone. See Exhibit K. Mr. Neibarger recommended collecting 911 fees at the point of sale for prepaid wireless transactions. Representative Battles asked if collecting 911 fees at the point of sale would solve all the problems, and Mr. Neibarger answered that it would facilitate complete collection of the fee. In response to Representative Lutz's question about the manner in which the fee would be assessed, Mr. Neibarger stated that his clients would defer to the wishes of the General Assembly as to whether the fee would be based on the amount of minutes purchased or would be a flat fee.

Senator Gard introduced Nick Gulling, Hancock County 911 Project Manager. Mr. Gulling informed the committee that Hancock County opened its combined dispatch center on October 15. Mr. Gulling also stated that Hancock County uses both property tax dollars and 911 fees to pay for its dispatch center, contrary to the SBA report that the county used only 911 fees. Mr. Gulling expressed his concern about the potential loss of revenue to Hancock County if 911 fees were reduced. See Exhibit L.

David Bottorff, Executive Director of the Indiana Association of Counties (IAC), stated his position that all communications technologies should be treated the same with regard to the assessment of 911 fees. Mr. Bottorff also stressed the need to move forward carefully with any change to the 911 fee structure.

## **V. Adjournment**

Senator Hershman thanked the committee members for their service and adjourned the meeting at 3:22 p.m.